

REMARKS

This Amendment is responsive to the Office Action dated June 30, 2004. Claims 1-19 were pending in the application. In the Office Action, claims 1-19 were rejected. In this Amendment, claims 1 and 11 have been amended. Claims 1-19 thus remain for consideration.

Applicant submits that claims 1-19 are in condition for allowance and requests reconsideration and withdrawal of the rejections in light of the following remarks.

§102 and §103 Rejections

Claims 1-5, 8-14 and 17-19 were rejected under 35 U.S.C. §102(b) as being anticipated by Seth-Smith et al. (U.S. Pat. No. 4,829,569).

Claims 6, 7, 15 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Seth-Smith in view of Mueller (U.S. Pat. No. 5,602,917).

Applicant submits that the independent claims (claims 1 and 11) are patentable over Seth-Smith.

Applicant's invention as recited in the independent claims is directed toward a data transmission controlling method and a data transmission system. The claims specify that a first communication channel is used for transmission of encrypted data and that a second communication channel is used for transmission of restrictive data for causing the encrypted data to be received solely by specific data receiving means. The claims further specify that "[a] data transmitting means performs a data encapsulation operation on said encrypted data prior to transmitting said encrypted data over said first communication channel."

Seth-Smith does not disclose a data transmitting means that performs a data encapsulation operation on encrypted data prior to transmitting the encrypted data over a first communication channel. Accordingly, Applicant submits that claims 1 and 11 are patentable over Seth-Smith on at least this basis.

Claims 2-5 and 8-10 depend on claim 1. Since claim 1 is believed to be patentable over Seth-Smith, claims 2-5 and 8-10 are believed to be patentable over Seth-Smith on the basis of their dependency on claim 1.

Claims 12-15, 18 and 19 depend on claim 11. Since claim 11 is believed to be patentable over Seth-Smith, claims 12-15, 18 and 19 are believed to be patentable over Seth-Smith on the basis of their dependency on claim 11.

Further, Applicant respectfully traverses the §103 rejections of dependent claims 6, 7, 16 and 17.

Applicant submits that all of the claims now pending in the application are in condition for allowance, which action is earnestly solicited.

It is submitted that these claims, as originally presented, are patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. Changes to these claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. §§101, 102, 103 or 112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicant is entitled.

Statements appearing above with respect to the disclosures in the cited references represent the present opinions of the Applicant's undersigned attorney and, in the event that the

Examiner disagrees with any such opinions, it is respectfully requested that the Examiner specifically indicate those portions of the respective reference providing the basis for a contrary view.

If any issues remain, or if the Examiner has any further suggestions, he/she is invited to call the undersigned at the telephone number provided below.

The Examiner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account No. 50-0320. The Examiner's consideration of this matter is gratefully acknowledged.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

By: 
Bruno Polito
Reg. No. 38,580
Tel. (212) 588-0800